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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,483	02/25/2002	Esteban Yopez III	29250/CE0871 II	4403
4743	7590	01/13/2005	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP 6300 SEARS TOWER 233 S. WACKER DRIVE CHICAGO, IL 60606			BLOUNT, STEVEN	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/082,483

Applicant(s)

YEPEZ ET AL.

Examiner

Steven Blount

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21 - 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21 - 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 21 is objected to because of the following informalities: In line 6, the phrase "priority determined" is indefinite. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 21 – 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Applicants Admitted Prior Art (hereinafter "AAPA") in view of PCT publication number WO 00/42789 to Galyas.

With regard to claim 21, AAPA teaches 1) a packet switching network (see page 1, second paragraph) 2) voice processing units in a transcoder that existed at a base site – see page 1, last sentence, to page 2, first sentence 3) the problem in the art that, in this system, "no discrimination is made between bypass mode calls and normal mode calls (eg, mobile to landline or vice versa) and, thus, normal calls requiring extra processing time for vocoding may be placed at the end of a fifo queue and transmitted after bypass calls requiring no decoding or encoding" (page 2, second paragraph) with its ultimate and unnecessary increased delay to the normal mode calls. AAPA does not, however, teach a solution to this problem to comprise using a prioritized queue (ie, through the use of a control processor that assigns a queue priority to the

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communication signal) in place of the fifo queue such that the priority levels with respect to delay in the queue are based on whether the signal is a standard call or a bypass call mode.

Galyas provides the basic teaching of selectively delaying packets through the use of memory queues 410 (figure 4B) such that packets which are less time sensitive ("eg, correspond to non-interactive speech" (page 2, lines 17+)) are placed in a higher delay class (page 5, lines 12+) and those that are less time sensitive are placed in a lower delay class (page 5, lines 15+). See also page 10, lines 21+: "providing multiple memory queues designated for one or more priority levels" and also page 9, lines 4+: "After identification, the different types may be assigned different levels of priority and subsequently queued so that they may forwarded at different times."

It would have been obvious to one of ordinary skill in the art at the time of the invention to have used a prioritized queue in AAPA in place of the fifo queue, and to have further prioritized the levels with respect to delay in the queue based on standard and bypass mode levels, in light of the teachings of Galyas, in order to give proper priority to normal mode calls such that their delay is not excessive relative to the bypass mode calls.

With regard to the following claims (hereinafter referred to as "CI") see the following:

CI 22: see page 10, line 9 (control flag).

CI 23: see page 1, lines 29+ (mobile/landline calls via transcoder) and page 2, lines 6+ (bypass).

CI 24: see the rejection of claim 23 immediately above.

CI 25: the elements are discussed above, including the control flag (see rejection of claim 22) and also see the mention of a fifo in the AAPA.

CI 26: the method steps are taught in the rejection of claim 21, including the prioritized queue.

CI 27: see the rejection of claim 23.

CI 28: see the rejection of claim 22.

CI 29: see the rejection of claim 21 where prioritized queues are discussed.

Response to Arguments

6. Applicant's arguments filed 7/8/2004 have been fully considered but they are not persuasive.

Many of applicants arguments are deemed moot in view of the new grounds of rejection. Applicant addresses the AAPA in the second paragraph of page 5. Applicant essentially believes that the combination of AAPA/Galyas is not proper. For the reasons stated in the rejection of claim 21, the examiner disagrees, and believes that the rejection is proper.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any response to this final action should be mailed to:

Box AF

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to: (703) 872 – 9306

For formal communications, please mark "EXPEDITED PROCEDURE".

For informal or draft communications, please label "PROPOSED" or "DRAFT".

Any inquiry concerning this communication should be directed to Steven Blount whose telephone number is (571) 272 – 3071. Examiner Blount may be reached Monday through Friday between the hours of 9:00 to 5:30. If attempts to reach the Examiner are unsuccessful, the Examiner's Supervisor, Kenneth Vanderpuye, may be reached at (571) 272 – 3078.

SB 12/20/04



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Ajit Patel
Primary Examiner